



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

**[SATS No. AR-040-FOR; Docket ID: OSM-2012-0017;
S1D1SSS08011000 SX064A000 189S180110;
S2D2SSS08011000 SX064A000 18XS501520]**

Arkansas Regulatory Program and Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement

(OSMRE), are announcing the withdrawal of a proposed rule pertaining to an amendment to the Arkansas regulatory program (Arkansas program) and the Arkansas Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Arkansas submitted the amendment to revise substantial portions of its regulatory program and AMLR Plan to be no less effective than the counterpart Federal regulations, as well as to clarify ambiguities, improve operational efficiency, correct grammar and punctuation, revise dates, and delete and add citations and subsections.

DATES: The proposed rule published September 10, 2012, at 77 FR 55430, is withdrawn [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

- I. Background on the Arkansas Program and AMLR Plan
- II. Submission of the Withdrawal

I. Background on the Arkansas Program and AMLR Plan

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, state laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior (Secretary) conditionally approved the Arkansas program effective November 21, 1980. You can find background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Arkansas program, in the November 21, 1980, Federal Register (45 FR 77003). You can find later actions on the Arkansas program at 30 CFR 904.10, 904.12, and 904.15.

The Abandoned Mine Land Reclamation Program was established by Title IV of the Act in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal

mines and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Indian lands if they develop and submit to the Secretary for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. On the basis of these criteria, the Secretary approved the Arkansas Plan effective May 2, 1983. You can find background information on the Arkansas Plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the May 2, 1983, Federal Register (48 FR 19710). You can find later actions concerning the Arkansas Plan at 30 CFR 904.25 and 904.26.

II. Submission of the Withdrawal

By letter dated June 25, 2012 (Administrative Record No. AR-572), Arkansas submitted a proposed amendment to its program and plan pursuant to SMCRA. Arkansas submitted the amendment in response to a September 30, 2009, letter (Administrative Record No. AR-571) from OSMRE in accordance with 30 CFR 732.17 (c), concerning multiple changes to ownership and control requirements. Arkansas also proposed substantive and nonsubstantive revisions to other sections of its regulatory program and its abandoned mine land reclamation plan at its own initiative.

We announced receipt of the proposed amendment in the September 10, 2012, Federal Register (77 FR 55430). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because neither was requested.

The public comment period ended on October 10, 2012. We did not receive any public comments.

OSMRE reviewed the proposed amendment, and in a letter dated January 3, 2013 (Administrative Record No. AR-572.03), requested clarifications and suggested revisions to some provisions. Arkansas responded with minor revisions to their submittal by a letter dated January 11, 2013 (Administrative Record No. AR-572.04). OSMRE requested additional clarifications from Arkansas by email on February 28, 2013 (Administrative Record No. AR-572.05), and on March 5, 2013 (Administrative Record No. AR-572.06). Arkansas responded by email on March 5, 2013 (Administrative Record No. AR-572.07). On April 24, 2013 (Administrative Record No. AR-572.10), OSMRE notified Arkansas that our technical review was complete. On April 25, 2013, Arkansas submitted a revised version of the proposed amendment reflecting all clarifications and edits made during the technical review period (Administrative Record No. AR-572.09). On March 6, 2014, Arkansas submitted a revised amendment that withdrew the proposed changes to Reg.20.817.57 (Administrative Record No. AR-572.11). On July 1, 2014, Arkansas submitted a final version of the proposed amendment with minor corrections regarding page numbering and typographical errors (Administrative Record No. AR-572.12). On July 11, 2014, Arkansas requested the withdrawal of sections related to its Abandoned Mine Land and Administrative sections from its original amendment request (Administrative Record No. AR 572.14).

The Office of the Solicitor, upon their review of the proposed amendment, found

additional inconsistencies with the Federal rule. In a letter dated August 7, 2017, Arkansas notified us that they were withdrawing the proposed amendment at this time (Administrative Record No. AR-572.15). Arkansas stated in the letter that they would submit a new proposed amendment after working with OSMRE informally to address the deficiencies.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 1, 2017.

Alfred L. Clayborne,
Regional Director
Mid-Continent Region

Editorial Note: The Office of the Federal Register received this document on March 7, 2018.

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